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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/864,523	05/24/2001	Phillip M. Berman	82553WFN	3057

7590 07/25/2005
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Rochester, NY 14650-2201

EXAMINER

COBANOGU, DILEK B

ART UNIT	PAPER NUMBER
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3626

DATE MAILED: 07/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/864,523

Applicant(s)

BERMAN, PHILLIP M.

Examiner

Dilek B. Cobanoglu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 MAY 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 20010524.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-4 have been examined.

Specification

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.
3. The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.
4. The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.
5. The abstract recites the legal phraseology "said" at lines 4-5.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cummings, Jr. et al (U.S. Patent No. 6,345,260) in view of DeBusk (U. S. Patent No. 5,995,937).

A. As per claim 1, Cummings discloses a system for determining medical diagnostic equipment or services (Cummings; abstract and col. 6, lines 34-38) comprising:

- i. A database system (Cummings; col. 8, lines 11-19) for information regarding the availability of medical service providers or diagnostic equipment (Cummings; col. 6, lines 34-38 and col.8, lines 20-57) at various facilities throughout a geographic region (Cummings; col. 4, lines 25-29); and
- ii. A user interface connectable to said database system via a network (Cummings; col. 2, lines 20-27 and col.7, lines 36-64), said user interface including software for accessing said database system via said network (Cummings; col. 8, lines 56-67) to determine the availability of specified medical diagnostic equipment at facilities convenient to the user (Cummings; col.4, lines 25-29)

Cummings fails to expressly teach the determining the availability of medical equipment, per se, since it appears that Cummings is more directed to scheduling the availability of medical providers and/or procedures rather than equipment. However, this feature is well known in the art, as evidenced by DeBusk.

In particular, DeBusk discloses a modular health-care information management system (DeBusk; abstract), wherein the scheduling and utilization of "inside resources" such as, medical equipment

used in OR's, radiology, laboratories, etc. is effectively managed via utilization management software (DeBusk; col.11, lines 1-20 & 31-53; col.14, lines 47-54; and col. 15, lines 36-50)

It would have been obvious to one having ordinary skill in the art at the time of the invention to have combined the scheduling and utilization management tools disclosed by DeBusk within the scheduling interface system taught by Cummings with the motivation of maximizing the productivity of these resources (i.e., medical diagnostic equipment), and the motivation of minimizing inefficiency caused by overbooked resources and overworked employees (DeBusk; col. 11, lines 43-47).

B. As per claim 2, Cummings discloses a software (Cummings; col. 8, lines 64-67) enables a user to schedule an appointment (Cummings; col.2, lines 4-9) to use available medical service providers or diagnostic equipment at a convenient location (Cummings; col. 6, lines 34-38 and col.8, lines 20-57).

The obviousness of modifying the teaching of Cummings to include the determining of the availability of medical equipment (as taught by DeBusk) is as addressed above in the rejection of claim 1 and incorporated herein.

C. As per claim 3, Cummings discloses a method for determining medical diagnostic equipment or services (Cummings; abstract and col. 6, lines 34-38) comprising:

- iii. Providing a database system (Cummings; col. 8, lines 11-19) for information regarding the availability of medical service providers or diagnostic equipment (Cummings; col. 6, lines 34-38 and col.8, lines 20-57) at various facilities throughout a geographic region (Cummings; col. 4, lines 25-29); and
- iv. Connecting to said database system via a network by means of a user interface (Cummings; col. 2, lines 20-27 and col.7, lines 36-64), said user interface which includes software for accessing said database system (Cummings; col. 8, lines 56-67) to determine the availability of specified medical diagnostic equipment at facilities convenient to the user (Cummings; col.4, lines 25-29)

Cummings fails to expressly teach the determining the availability of medical equipment, per se, since it appears that Cummings is more directed to scheduling the availability of medical providers and/or procedures rather than equipment. However, this feature is well known in the art, as evidenced by DeBusk.

In particular, DeBusk discloses a modular health-care information management system (DeBusk; abstract), wherein the scheduling and utilization of "inside resources" such as, medical equipment used in OR's, radiology, laboratories, etc. is effectively managed via utilization management software (DeBusk; col.11, lines 1-20 & 31-53; col.14, lines 47-54; and col. 15, lines 36-50)

It would have been obvious to one having ordinary skill in the art at the time of the invention to have combined the scheduling and utilization management tools disclosed by DeBusk within the scheduling interface system taught by Cummings with the motivation of maximizing the productivity of these resources (i.e., medical diagnostic equipment), and the motivation of minimizing inefficiency caused by overbooked resources and overworked employees (DeBusk; col. 11, lines 43-47).

D. As per claim 4, Cummings discloses a user's interface software (Cummings; col. 8, lines 64-67) to schedule an appointment (Cummings; col.2, lines 4-9) to use available medical service providers or diagnostic equipment at a convenient location (Cummings; col. 6, lines 34-38 and col.8, lines 20-57)

The obviousness of modifying the teaching of Cummings to include the determining of the availability of medical equipment (as taught by DeBusk) is as addressed above in the rejection of claim 1 and incorporated herein.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not applied prior art teaches a personalized health care provider directory (6,014,629), appointment booking and scheduling system (5,848,395), digital-timeshare-exchange (5,926,793), travel reservation information and

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planning system (5,948,040), method and system for inventory management (6,061,691).

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dilek B. Cobanoglu whose telephone number is 571-272-8295. The examiner can normally be reached on 8-4:30.

10. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DBC

Dilek B. Cobanoglu
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